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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RENE MONTANEZ, et al.,)
)
Plaintiffs,)
)
vs.) No. 08 C 1533
)
J. OCAMPO, Officer, in his individual)
capacity, et al.,) Chicago, Illinois
) January 15, 2009
Defendants.) 9:56 A.M.

TRANSCRIPT OF PROCEEDINGS - Telephonic Status
BEFORE THE HONORABLE MICHAEL T. MASON, Magistrate Judge

APPEARANCES:

For the Plaintiffs: HORWITZ, RICHARDSON & BAKER, LLC
20 South Clark Street
Suite 500
Chicago, Illinois 60603
BY: MR. SEAN M. BAKER

For the Defendants: CITY OF CHICAGO, LAW DEPARTMENT
FEDERAL CIVIL RIGHTS
LITIGATION DIVISION
30 North LaSalle Street
Suite 900
Chicago, Illinois 60602
BY: MS. TIFFANY YVETTE HARRIS

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NOTE: Please notify of correct speaker identification.

1 (Telephonic proceedings held in open court:)

2 THE CLERK: 08 C 1533, Montanez versus Ocampo.

3 THE COURT: Okay. Go ahead and put your names on the
4 record again, please.

5 MR. BAKER: Again for plaintiffs, this is Sean Baker.

6 THE COURT: Uh-huh.

7 MS. HARRIS: Tiffany Harris on behalf of the defendant
8 officers. That's H-a-r-r-i-s.

9 THE COURT: Thank you.

10 And, Mr. Baker, you called chambers after you left
11 here. I guess you forgot to --

12 MR. BAKER: I did, your Honor. My brain did not thaw
13 out while I was in front of the bench, so I apologize.

14 THE COURT: That happens. That happens.

15 MR. BAKER: We have noticed up the deposition of the
16 defendant officers as videotaped depositions. In order to
17 avoid motions on this -- because depositions went Tuesday and
18 yesterday --

19 THE COURT: Uh-huh.

20 MR. BAKER: -- I was going to bring this up in court
21 when I was there this morning just to see if we could get a
22 decision one way or the other as to whether or not we could
23 proceed with videotaped depositions of the officers.

24 MS. HARRIS: And, your Honor, the defendant officers
25 are objecting to this request by the plaintiff. We are

1 concerned for the security of the officers while the officers
2 are involved in gang team missions and undercover operations,
3 and we cannot have them being photographed or videotaped in any
4 way, shape or fashion.

5 THE COURT: When you noticed this up -- when did you
6 notice these depositions up?

7 MR. BAKER: We had initially noticed them up as
8 regular depositions. Then on Tuesday I sent out notices of
9 videotaped deposition for all officers from that point
10 forward.

11 Ms. Harris mentioned to me that she would object. So
12 I proceeded on Wednesday's deposition, you know, as a regular
13 dep so that we wouldn't have to come in and motion in front of
14 the Court. And I was hoping to address that, obviously, this
15 morning.

16 THE COURT: So you gave them a day's notice is what it
17 amounts to.

18 MR. BAKER: For one. For the one deposition, you
19 know, that would be a day's notice. But then obviously we had
20 depositions today, and there may be a dep tomorrow. I know we
21 have some in the following weeks, and we had wanted to proceed
22 with videotape of those. And, also, there is a protective
23 order in this case.

24 THE COURT: Yeah. Tell us about that.

25 MR. BAKER: Well, the protective order I believe would

1 cover these depositions. And obviously we're not going to
2 disseminate it to anybody other than for purposes in court.

3 THE COURT: Uh-huh. For purposes of the trial?

4 MR. BAKER: Correct. I mean, obviously, it is always
5 helpful when, you know, I ask an officer a question, and you
6 can see the demeanor from the videotape as to how they
7 respond. Doesn't necessarily come off that way just from the
8 print on the page.

9 MS. HARRIS: Well, your Honor, our response to that
10 would be if we proceed to trial in this matter, he clearly
11 would have an opportunity to cross examine the officers in
12 court, and the jury will be able to observe their demeanor.

13 There is issues concerning the impeachment with the
14 record. If he is concerned about his client identifying the
15 officers, he could certainly bring his clients to the
16 deposition.

17 THE COURT: What's your concern, Mr. Baker?

18 MR. BAKER: Well, you know, we don't have a
19 (unintelligible) because I believe that I noticed up properly
20 under the rules, and the rules permit me to take depositions
21 this way. And, you know, while it might be an officer to be
22 observed at trial, it is not the same as when he's answering
23 the type of thorough questioning I put him through in my
24 depositions. And, you know, whether they are going to take a
25 pause or they look over to their attorney before they answer or

1 if they -- you know, if -- the pausing and maybe the tenor of
2 the voice and the answer, so that's why I want to have it
3 videotaped. It is a very useful tool at that point.

4 THE COURT: And do you want this to be retroactive
5 where you can go back and redepose --

6 MR. BAKER: No, I'm not going to redepose anybody.

7 THE COURT: Okay.

8 MR. BAKER: I don't play games that way.

9 THE COURT: All right.

10 MR. BAKER: You know, I'm satisfied with what I have
11 done.

12 But from this point forward, you know, from today's
13 dep forward, I would like to be able to videotape these
14 officers.

15 THE COURT: All right.

16 MS. HARRIS: Well, your Honor, if he is satisfied with
17 what's he has done thus far, why can't he have them
18 (unintelligible) is not obvious to me on behalf of the
19 (unintelligible) --

20 THE COURT: He's.

21 MS. HARRIS: -- depositions on the videotape.

22 THE COURT: He has given you enough notice on these
23 others. And I'm going to go ahead and allow him to videotape
24 these others with the limit on here that they can only be used
25 for purposes of trial.

1 MS. HARRIS: Your Honor, and (unintelligible) that I
2 am being difficult; however, you know, we really do have some
3 concerns for the security issues of the officers. And we will
4 be concerned because apparently this law firm has started to do
5 this, the trend of noticing up videotaped depositions of
6 officers.

7 Is it possible that we can brief this issue? Because
8 I would just hate for this to be kind of a trend. And our
9 officers really are concerned that somehow this information can
10 fall into the wrong hands.

11 THE COURT: If you look at the federal rules, and in
12 particular here Rule 30 -- this is the Federal Rules of Civil
13 Procedure, Rule 30(b)(3)(A), method stated in the notice. The
14 party who notices the deposition must state in the notice the
15 method for recording the testimony. Unless the Court orders
16 otherwise, testimony may be recorded by audio, audiovisual or
17 stenographic means. The noticing party bears the cost -- or
18 the recording cost. Any party may arrange to transcribe a
19 deposition.

20 That will be my order. But --

21 MS. HARRIS: Well, your Honor, we also have --

22 THE COURT: Wait a second, counsel.

23 MS. HARRIS: -- (unintelligible.)

24 THE COURT: Wait a second, counsel. Let me finish.

25 MS. HARRIS: Oh, I apologize.

1 THE COURT: You're to limit this to -- for use at
2 trial only.

3 Do you understand that, Mr. Baker?

4 MR. BAKER: Yes, your Honor.

5 THE COURT: All right.

6 MR. BAKER: You know, my reputation in court and my
7 license and all, I'm not going to play games with this.

8 THE COURT: Yeah. That's fine.

9 MR. BAKER: So the only reason I'm doing this is so
10 that, you know, if and when we have to get (unintelligible) to
11 go to trial, have this as a tool to present to the jury.

12 THE COURT: That's fine.

13 Ms. Harris, I'll let you finish your thought here.

14 MS. HARRIS: Thank you, your Honor.

15 I, just for the purposes of making sure that the
16 videotape is properly maintained until the purpose of trial, I
17 would like to have it attorneys's eyes only, your Honor.

18 THE COURT: Yeah, that's -- I have no problem with
19 that.

20 MS. HARRIS: Okay.

21 MR. BAKER: For instance, your Honor, an expert would
22 have to review it. I think the expert would only have to
23 review a transcript anyway. I don't think --

24 THE COURT: Yeah, I don't think they would have to.
25 And if it becomes a problem, motion it up.

1 MR. BAKER: Great.

2 THE COURT: All right?

3 MS. HARRIS: Your Honor, with respect to today's
4 deposition, are -- is that going to be videotaped or -- because
5 I did not receive notice until approximately 5:00 o'clock on
6 Tuesday.

7 THE COURT: No, you got enough notice on that.

8 MS. HARRIS: Okay.

9 THE COURT: All right?

10 MS. HARRIS. Thank you, your Honor.

11 THE COURT: Anything else?

12 MR. BAKER: That's it, your Honor. I greatly
13 appreciate it. And I apologize for having to do it this way --

14 THE COURT: All right.

15 MR. BAKER: -- (unintelligible) taking your time up.

16 THE COURT: Sure. Thank you.

17 MS. HARRIS: Thank you.

18 MR. BAKER: Thank you.

19 THE COURT: Bye.

20 (Which concluded the proceedings in the above-entitled
21 matter.)

CERTIFICATE

22 I HEREBY CERTIFY that the foregoing is a true, correct
23 and complete transcript of the proceedings had at the hearing
24 of the aforementioned cause on the day and date hereof.

/s/ Pamela S. Warren

April 8, 2010

25 Official Court Reporter

Date

United States District Court

Northern District of Illinois

Eastern Division